

Employee Defenses to Discipline

As every employer knows, the burden of showing just cause rests with them. There are however some defenses that every employer - and of course every union - should know and be prepared for, whether you're claiming it or defending against it.

Sometimes the union even bears the burden of proof of particular defenses. Even so, employers should be prepared to produce countervailing evidence if there is a chance these issues might arise.

This session will explore some of the possible defenses that unions and employees can make that might defeat a showing of just cause or at least provide a basis for a lesser form of discipline than the employer is seeking.

This is an interactive session where audience feedback is encouraged and welcome.

Settle or Arbitrate

One of the roles of a good advocate is to have a frank and informed discussion with their clients or principals about whether it is worth the inherent risks of going to a hearing or whether it is better to work out a settlement. Obviously, the terms of the settlement are for the parties to work out and we won't be delving too deeply into the tactics for settling any particular case or how best to "bluff."

This session will discuss some of the factors to be considered in deciding whether to settle or arbitrate, such as:

- What's really at stake here?

- Is it worth the cost?

- What might happen if we lose?

- What happens if we win?

- Is there a better way to deal with this - like doing it in negotiations - rather than run the risk of a decision you might not like.?

The key is preparation - almost as if you're ready for trial. The more you know, the better prepared you will be and that includes knowing what the "other side" may have as well. This will be an interactive session where audience feedback is welcomed and encouraged.

Epic Systems Corp. v Lewis

Over the past several years the US Supreme Court has dramatically increased the right of employers to require individual employees to sign employment agreements that mandate that the employee take any employment related dispute to binding arbitration instead of going to court; even disputes involving alleged violations of federal law. Some employees have responded to this by attempting, over the objection of employers, to bring class action

arbitrations under those agreements. This has given rise to the question of whether forbidding such class action arbitrations violates Section 7 of the NLRA which guarantees employees the right to "engage in . . . concerted activities." The federal appeals courts have ruled both ways and the question is now before the Supreme Court in *Epic Systems v. Lewis*, which will likely be decided in the months just before this Conference. This presentation will give the background to the case and discuss the result.

Janus Decision

An overview of the arguments and decision from the U.S. Supreme Court in *Janus v. American Federation of State, County, and Municipal Employees* and discussion on the potential ramifications of the decision on labor relations in Montana.

Generations in the Work Force

Have you ever looked at a younger or older colleague and thought "they certainly don't behave like I used to!" or "I just don't understand why he thinks that way", then welcome to the multi-generational workforce. Baby Boomers, Gen X'ers, and Millennials all bring different talents, perspectives and expectations to the workplace. This presentation will help you understand, value and incorporate these talents into your experience. Studies show that a multi-generational workplace is a stronger, more inclusive and more productive place; let's not fight these differences but instead use them to make us all more successful and productive!

Presentation of Your Case Plus: Top 10 Ways to Stink Up Your Arbitration

"A quick step-through of the basics of arbitration case presentation, with checklists and reminders. Plus, a Letterman-style review of things done by advocates who didn't attend this session."

Courageous Conversations

Within all organizations there is a powerful group of people that create the "real culture." These people are known as the "Key Influencers." Key Influencers operate both mindlessly and purposefully and do so with or without title. They create the underlying belief system that dramatically influences productivity, often paralyzing the people who are attempting to navigate growth and change.

The Courageous Conversations program shares how to navigate difficult and delicate situations, one conversation at a time.

- Framing discussions as dilemmas vs. finger pointing
- Getting the "undiscussables" on the table
- Creating a "pool of shared understanding"

- Knowing when to “lead out” and when to step out of the way
- Unearthing “hold-outs” and seeking constructive feedback
- Knowing how to enroll Key Influencers into “positive possibilities” instead of destructive past-based perspectives
- Understanding how to “unlock” the story-building process
- Creating high-levels of personal accountability

Ethics

Arbitrator Francis (Hank) Raucci will explore the ethical considerations raised by bargaining and grievance administration case studies and address the specific ethical concerns and obligations faced by each side and the arbitrator.

Marijuana in Today’s Labor Arbitration

“Everything labor and employment attorneys and representatives need to know about marijuana and THC in the workplace including the basics of drug testing and what you need to know before you set foot in the courtroom”.

Ask the Arbitrator

Have you ever wondered how an arbitrator thinks about contract interpretation and past practice? Well here’s your chance, not with one arbitrator but two? Come listen to an arbitrators' conversation about contract interpretation and past practice. Arbitrators Howell Lankford and David Gaba will enlighten you in this informative and interactive session!!

Mock Arbitration

Let’s take it to Arbitration! Have you ever had the experience of going through an actual Arbitration? Here’s your chance to see what takes place during this Mock Arbitration. We will present an Arbitration case complete with the Labor and Employer attorneys with their witness and even an Arbitrator to make it official. Come watch and learn as this case is presented in an actual setting. At the end of the case test your skills. Will the grievance be denied or sustained? You make the call!!